



CENTRAL BANK OF BARBADOS ACT, 2020-30

*Arrangement of Sections*

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#### *Consequential Amendment*

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**BARBADOS**

I assent  
S. MASON  
Governor-General  
11th December, 2020.

**2020-30**

An Act to revise the *Central Bank of Barbados Act*, Cap. 323C to strengthen the Central Bank's governance and independence while maintaining accountability, to ensure the compliance of the Central Bank with internationally recognised accounting standards and for other related matters.

[Commencement: 14th December, 2020]

ENACTED by the Parliament of Barbados as follows:

## PART I

## PRELIMINARY

**Short title**

1. This Act may be cited as the *Central Bank of Barbados Act, 2020*.

**Interpretation**

- 2.(1) For the purposes of this Act,

“auditor” means a person who

- (a) is a member of the Institute of Chartered Accountants of Barbados;
- (b) holds a practising certificate from the Institute; and
- (c) is in good standing with the Institute;

“Bank” means the Central Bank of Barbados established under the former Act;

“Board” means the Board of Directors established under Part IV;

“capital account” means an account where the capital of the Bank and any transactions which affect that capital is recorded;

“Chief Internal Auditor” means the person appointed in accordance with section 65;

“Corporation” means the Deposit Insurance Corporation established under the *Deposit Insurance Act, Cap. 323*;

“currency” means notes and coins issued by the Bank, whether in fiat, digital or other formats that are legal tender in Barbados;

“Deputy Governor” means a Deputy Governor of the Bank;

“Director” means a member of the Board;



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- “Director of Finance” has the meaning assigned to it in section 2 of the *Public Finance Management Act, 2019* (Act 2019-1);
- “employee” includes a person engaged in employment with the Bank under a contract of service;
- “enterprise” means a body corporate or an unincorporated body that is wholly or majority owned by the Government;
- “Executive Committee” means the Executive Committee established under Part IV;
- “financial institution” includes
- (a) an entity which is registered under the *Financial Institutions Act, Cap. 324A*; or
  - (b) a similar institution that the Minister prescribes as a financial institution for the purposes of this Act;
- “former Act” means the former *Central Bank of Barbados Act, Cap. 323C*;
- “Governor” means the Governor of the Bank;
- “illiquid financial institution” means a financial institution that is unable to fund increases in assets or meet its financial obligations as the obligations become due without incurring losses which may negatively impact its ability to operate;
- “Institute” means the Institute of Chartered Accountants of Barbados created by the *Institute of Chartered Accountants of Barbados Act, Cap. 369A*;
- “monetary liabilities” means currency in circulation, deposits of financial institutions lodged at the Bank and securities issued by the Bank;
- “non-executive Director” means a Director of the Board other than the Governor or the Director of Finance;
- “Pension Fund” means the Fund that was established by the *Central Bank of Barbados (Pensions) Regulations, 1982* in respect of which the Bank is the

trustee as declared by the Trust Deed made by the Bank and dated the 31<sup>st</sup> day of August, 1983;

“primary market” means the market in which new Government securities are issued;

“public officer” has the meaning assigned to it in the *Public Service Act*, Cap. 29;

“recapitalization plan” means the process and procedure by which any deficit in the capital of the Bank is restored to the amount stated in section 7;

“systemically important financial institution” means a financial institution whose failure may lead to a financial crisis.

(2) Notwithstanding section 39(8) of the *Interpretation Act*, Cap. 1, for the purposes of this Act financial year means the calendar year.

## PART II

### CONSTITUTION

#### **Business of the Bank**

3. The Bank shall continue in existence under this Act and shall carry on business in accordance with this Act.

#### **Status and powers**

4.(1) The Bank shall be a body corporate.

(2) Subject to the limitations of this Act, section 21 of the *Interpretation Act*, Cap. 1 applies to the Bank.

#### **Offices, branches, agents and correspondents**

5.(1) The Bank shall have its head office at such location in Bridgetown as the Minister, acting on advice of the Board, may from time to time determine.

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- (2) Notwithstanding subsection (1), the Bank may
- (a) establish branches within Barbados;
  - (b) appoint agents and correspondents within Barbados and abroad; and
  - (c) with the approval of the Minister, establish offices abroad.

### **Objectives and functions**

- 6.(1) The primary objective of the Bank is to maintain the value of the currency.
- (2) The secondary objective of the Bank is to promote financial stability which is conducive to the orderly and sustained economic development of Barbados.
- (3) The functions to be exercised by the Bank pursuant to the objectives referred to in subsections (1) and (2) are to
- (a) determine and implement monetary policy;
  - (b) implement policies for the management of the exchange rate;
  - (c) hold and manage all the official international reserves of Barbados;
  - (d) issue and manage currency;
  - (e) act as a lender of last resort to financial institutions;
  - (f) collect and produce economic and financial statistics;
  - (g) regulate and promote a safe, sound and efficient payment and clearing system;
  - (h) adopt and implement macro-prudential policy measures to promote financial stability;
  - (i) act as a prudential regulator in accordance with the *Financial Institutions Act*, Cap. 324A;
  - (j) act as a fiscal agent and financial advisor to the Government; and

- (k) carry out any ancillary activities which are related to the exercise of its functions under this Act.

### PART III

#### CAPITAL, PROFITS AND RESERVES

##### **Capital**

- 7.(1) The authorized capital of the Bank shall be \$25 000 000 which shall be fully paid up.
- (2) Notwithstanding subsection (1), the authorized capital may be increased by amounts proposed by the Bank and approved by the Minister.
- (3) The capital of the Bank shall be for the sole account of the Government.
- (4) The capital shall not be transferable or subject to encumbrance and the reduction of capital shall not be effected except by an amendment of this Act.
- (5) Notwithstanding any other provision of this Act, the Minister shall cause to be transferred to the ownership of the Bank negotiable and interest-bearing securities that are issued by the Government for an amount that is necessary for the purpose of preserving the paid-up capital from any impairment whenever, in the judgment of the Board, the assets of the Bank are less than the sum of its liabilities and paid-up capital.
- (6) Subsection (5) shall come into force after the Government develops and completes a recapitalization plan.

##### **Reserve accounts**

- 8.(1) The Bank shall establish and maintain a general reserve account.
- (2) The general reserve account shall not be used except for the purpose of covering losses sustained by the Bank.

(3) The Bank may, with the approval of the Minister, establish special reserve accounts.

### **Profits, losses and distributable earnings**

**9.(1)** The net profits or losses of the Bank shall be determined in accordance with internationally recognised accounting standards.

(2) The earnings available for distribution under section 10 shall be determined by deducting from the distributable profits the total amount of all unrealised gains, if any.

### **Allocation of distributable earnings**

**10.(1)** Where the Board approves financial statements that have been validated by an external auditor, the Bank shall allocate the distributable earnings in the following order:

- (a) where the paid-up capital of the Bank does not equal its authorized capital, the paid-up capital shall be increased by the net profits of the Bank for every financial year until the paid-up capital of the Bank is equal to its authorized capital;
- (b) where the sum of capital and general reserves do not equal 7.5 per cent of the total monetary liabilities of the Bank, 100 per cent of distributable earnings shall be credited to the general reserve account after provision is made for the matters set out in paragraph (a) of this subsection;
- (c) payment of any amounts necessary to liquidate notes issued by the Government pursuant to section 43(3)(a);
- (d) credit to special reserve accounts established pursuant to section 8(3);
- (e) credit to or satisfaction of any claims of the Bank on the Government where such claims remain unpaid;

- (f) transfer to the Consolidated Fund after the matters in paragraph (a) to (e) have been satisfied.
- (2) The Bank shall not pay or distribute interim dividends.
- (3) No distribution shall be made out of the net profits of the Bank or its reserves except in accordance with subsection (1).
- (4) No distribution of profits shall be made where, in the determination of the Board, the assets of the Bank would be less than the sum of the liabilities and capital after such distribution is made.
- (5) Where in a financial year the Bank incurs a net loss, the loss shall first be charged to the general reserve account and subsequently applied against the capital account.

## PART IV

### ADMINISTRATION

#### **Governing bodies**

**11.** The decision making bodies of the Bank shall be the Board of Directors and the Executive Committee.

#### **Board**

**12.(1)** The Board shall comprise of the Governor, 5 non-executive Directors and the Director of Finance.

(2) Notwithstanding subsection (1), at least one of the non-executive Directors must have not less than 6 years of recognised experience in accounting matters.

(3) The Governor shall chair the meetings of the Board and, in the case of the absence of the Governor, one of the Deputy Governors, as directed by the Governor, shall chair the meeting.

**Functions and powers of the Board**

**13.(1)** The Board shall be responsible for the oversight of the executive management of the Bank as exercised by the Executive Committee.

(2) Notwithstanding subsection (1), the Board shall have the following functions and powers:

- (a) to approve the budget of the Bank and oversee its execution;
- (b) to approve the allocation of profits to special reserves;
- (c) to consider and approve the annual audited accounts and the financial statements of the Bank;
- (d) to define the organisation of the Bank and the general policy which regulates the powers and duties of its employees, including the framework for recruitments, promotions and the exercise of disciplinary control;
- (e) to appoint and dismiss the Chief Internal Auditor of the Bank;
- (f) to adopt the external auditor selection and rotation policy and appoint and dismiss the external auditor of the Bank upon the recommendation of the Audit Committee;
- (g) to oversee the system of financial reporting, risk management and internal controls of the Bank;
- (h) to carry out any ancillary powers which relate to its oversight role;
- (i) to request to be furnished with information of the Bank which it requires to carry out its oversight functions;
- (j) to adopt the accounting policies of the Bank and procedures which are in accordance with the internationally recognised accounting standards;
- (k) to make by-laws which regulate the conduct of the business of the Bank;

- (l) to make regulations and issue orders for the purpose of giving effect to the provisions of this Act.

#### **Power to establish committees**

**14.(1)** Where the Board is empowered or required to perform a function pursuant to this Act, the Board may appoint a committee for the purpose of doing anything required or deemed expedient or necessary for the purpose of performing the function.

(2) Where a committee performs a function in accordance with subsection (1), it is deemed to have been performed by the Board.

(3) Where the Board appoints a committee pursuant to subsection (1), the committee shall, on completion of the function, submit a report in writing as soon as practicable to the Board.

#### **Executive Committee and delegation of powers and functions**

**15.(1)** The Executive Committee shall consist of the Governor and 2 Deputy Governors.

(2) The Governor shall chair the Executive Committee.

(3) The Executive Committee shall be responsible for

- (a) the executive management of the Bank;
- (b) the formulation, adoption and implementation of the policies of the Bank including the monetary policy and the financial stability policy of the Bank;
- (c) the formulation and implementation of the policies which the Board adopts;
- (d) the management of the international reserves in accordance with the risk management and internal control framework as approved by the Board;



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- (e) the rules for the reproduction of legal tender banknotes and the details of the exchange of legal tender banknotes, including the rules for the replacement of damaged legal tender banknotes;
  - (f) the requirements and conditions for the management and access to the clearing and payment system;
  - (g) making regulations in relation to the functions and powers which it exercises under this Act;
  - (h) such other powers and duties as stated within the Act which are not explicitly allocated to the Board.
- (4) The Executive Committee may delegate its functions and powers where such delegation is not inconsistent with the provisions of this Act.

#### **Audit Committee**

- 16.(1)** There shall be an Audit Committee of the Bank which the Board shall select.
- (2) The Audit Committee shall comprise of 3 members from among the non-executive Directors.
  - (3) At least one member of the Audit Committee shall be an accounting or auditing expert.
  - (4) The responsibilities of the Audit Committee shall include the following:
    - (a) the evaluation of the overall effectiveness of internal control systems of the Bank;
    - (b) the oversight of the financial statements and the financial reporting processes;
    - (c) making recommendations to the Board with respect to the external auditor selection and rotation policy;
    - (d) proposing to the Board the scope of any special audits and other relevant services;

- (e) reviewing the performance of external auditors;
  - (f) monitoring the implementation of recommendations made by the Chief Internal Auditor and external auditors;
  - (g) reporting to the Board not less than 4 times a year;
  - (h) preparing and submitting to the Board an annual written report of the activities of the Audit Committee.
- (5) Notwithstanding subsection (4), the Board shall approve the charters, rules, procedures and responsibilities of the Audit Committee.
- (6) At the invitation by the Audit Committee, the members of the Board, the members of the Executive Committee or employees of the Bank may attend the meetings of the Audit Committee but shall not have the right to vote.
- (7) The Audit Committee may seek the advice of external experts with respect to matters which are within its remit under this Act.

### **Governor**

- 17.(1)** There shall be a Governor of the Bank who shall perform the functions conferred on him by this Act.
- (2) Subject to section 77, the Board shall, with the approval of the Minister, appoint a Governor by instrument in writing for a period not exceeding 6 years and who shall be eligible for re-appointment.
- (3) No person shall be appointed Governor unless that person has
- (a) a postgraduate degree in Economics, Finance or Law or a relevant professional qualification; and
  - (b) not less than 10 years recognised experience in a senior position in financial, monetary or banking matters.
- (4) The instrument of appointment of the Governor shall contain the terms of the appointment and the terms shall not be altered to the disadvantage of the appointed Governor during his tenure of office.

(5) The Governor shall be removed from office only in accordance with the provisions of section 25.

### **Deputy Governors**

**18.(1)** There shall be 2 Deputy Governors of the Bank.

(2) Subject to section 77, the Board shall, with the approval of the Minister, appoint the Deputy Governors.

(3) Subject to subsection (2), section 17(3) shall apply to the appointment procedure of Deputy Governors with such modification and adaptation as is necessary.

(4) The Deputy Governors shall perform

(a) the functions stipulated by this Act; and

(b) under the supervision of the Governor, such other functions as the Board may confer on them.

(5) Where a person is appointed as a Deputy Governor, the instrument of appointment shall contain the terms of the appointment and the terms shall not be altered to the disadvantage of the appointed Deputy Governor during his tenure of office.

### **Duties of the Governor and the Deputy Governor**

**19.(1)** The Governor or, in the case of his absence, a Deputy Governor who the Governor designates

(a) shall serve as chief executive officer of the Bank responsible to the Board for the execution of the policy of the Bank and the management of the Bank;

(b) shall have the power to act, contract and sign instruments and documents on behalf of the Bank except as may be otherwise provided by this Act, by-laws of the Bank or resolutions of the Board;

- (c) may delegate the power under paragraph (b) to other officers of the Bank pursuant to resolutions of the Board.
- (2) The Board with the approval of the Minister, shall, in the case of a disability of the Governor, designate a Deputy Governor to perform the role of Governor.

### **Service to the Bank**

- 20.(1)** The Governor and the Deputy Governors, while holding office, shall devote their professional services to the Bank.
- (2) The Governor and the Deputy Governors, while holding office, shall not, without the approval of the Board,
    - (a) receive a salary or supplementation from a source other than the Bank; or
    - (b) occupy another office or have other employment, whether remunerated or not.
  - (3) Notwithstanding subsection (2), the Governor may
    - (a) act as a member of a board, committee or commission established by Government;
    - (b) become a governor, director or member of a board of an international bank or an international financial institution of which Barbados is a member; or
    - (c) become a director of a corporation in which the Bank is a participant.

### **Non-executive Directors**

- 21.(1)** Subject to section 77, the Minister shall, by instrument in writing and on the recommendation of the Board, appoint 5 non-executive Directors.

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- (2) A person shall not be appointed as a non-executive Director unless that person has
- (a) a degree in Economics, Business, Finance or Law or a relevant professional qualification; or
  - (b) not less than 10 years recognised experience in a senior position in financial, monetary, banking or business matters.
- (3) Subject to section 77, the Minister shall appoint non-Executive Directors for a term of 6 years.
- (4) A person who the Minister appoints as a non-Executive Director shall be eligible for re-appointment.

#### **Fees and allowances of Directors**

**22.** A Director is entitled to such fees and allowances as the Board prescribes and the Minister approves.

#### **Immunity of Directors**

**23.(1)** Acts done by a person acting in good faith as a Director shall be valid as if he were a Director notwithstanding that some defect in his appointment or qualification be afterwards discovered.

(2) A Director shall not be liable for anything done or omitted in the discharge or purported discharge of his functions under this Act unless it is shown that the act or omission was done in bad faith.

#### **Vacancy of Director**

**24.(1)** Where a Director dies, resigns or otherwise vacates his office before the expiry of the term for which he is appointed, another person shall be appointed in his place in accordance with section 21(1) and section 21(2) for the unexpired period of his term.

(2) The Minister, upon being advised by the Board of the temporary absence or incapacity of a Director, may appoint a person to serve as a substitute for the

Director until the expiry of the term of the Director or until a determination that the absence or incapacity of the Director has ceased, whichever is earlier.

### **Disqualification and removal**

**25.(1)** No person shall be appointed as or remain a Deputy Governor or a Director where

- (a) he is or becomes a director, an officer, an employee or a shareholder of a body corporate which is
  - (i) licensed under the *Financial Institutions Act*, Cap. 324A; or
  - (ii) specified as a financial institution in accordance with section 53;
- (b) he is or becomes a member of either House of Parliament;
- (c) he has been convicted by a court of an arrestable offence or other offence involving dishonesty;
- (d) he has been adjudged or otherwise declared bankrupt under a law in force in Barbados;
- (e) he is certified to be suffering from a mental disorder or otherwise adjudged to be of unsound mind under a law in force in Barbados; or
- (f) the Minister, on the recommendation of the Board, finds that he
  - (i) is unfit or otherwise incapable of carrying out his duties;
  - (ii) is guilty of serious misconduct in relation to his duties or approved policies of the Board; or
  - (iii) has contravened section 27(1), 27(3) or 27(4).

(2) Notwithstanding paragraph (f) of subsection (1), no person shall remain a Governor where the Governor-General, on the recommendation of the Minister, finds that he

- (a) is unfit or otherwise incapable of carrying out his duties;

- (b) is guilty of serious misconduct in relation to his duties or approved policies of the Board;
  - (c) has contravened section 27(1), 27(3) or 27(4); or
  - (d) has acted contrary to the objectives and functions of the Bank set out in section 6 of this Act.
- (3) A person shall not remain a Director if he is absent without leave of the Board for 3 or more consecutive meetings of the Board.

### **Resignation**

- 26.(1)** The Governor may resign from his office by not less than 3 months' written notice to the Minister.
- (2) A non-executive Director may resign by not less than one month's written notice to the Minister.
- (3) The Minister may waive the period of notice required by subsection (1) or (2).
- (4) A Deputy Governor may resign from his office by not less than 3 months' written notice to the Board.

### **Conflict of interest**

- 27.(1)** A Director or a Deputy Governor shall
- (a) fully disclose to the Board any commercial, agricultural, industrial or other interests that he may at any time directly or indirectly be connected with; and
  - (b) refrain from voting on a matter that relates to interests which become the subject of action to be taken by the Board.
- (2) Where the Director discloses any interests in accordance with subsection (1), he shall not be disqualified from constituting a quorum at a meeting of the Board.

(3) A Director or Deputy Governor shall not act as a delegate of any commercial, financial, agricultural, industrial or other interests or receive or accept directions from such interests in respect of duties he is to perform under this Act.

(4) A Director, a Deputy Governor or any other employee or a public officer acting in an office of the Bank shall not accept a gift or an advantage for himself or on behalf of persons with whom he may have family, business or financial connections, if the acceptance would result or give the appearance of resulting in a diminution of his impartial performance of his duties under this Act.

(5) Where a person to whom this section applies does not act in good faith and contravenes this section, he is guilty of an offence and is liable on conviction on indictment to a fine of \$25 000.

### **Secrecy**

**28.(1)** A Director, an employee or a public officer acting in an office of the Bank, except for the purpose of the performance of his duties or exercise of his functions under this Act or when lawfully required to do so by a court or under the provisions of a law, shall not disclose

- (a) any material information regarding the affairs of the Bank which he has acquired in the performance of his duties or the exercise of his functions; or
- (b) any statement, return or information that a person, over whom the Bank exercises supervisory jurisdiction in respect of its business, submits or furnishes to the Bank.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of \$25 000 or to imprisonment for 5 years or to both.



**Remuneration**

**29.** The Bank shall not compute a salary, a fee, a wage, an allowance or other remuneration that it pays to a person by reference to the net or other profits of the Bank.

**Secondment and transfer of employees and public officers**

**30.(1)** The Bank and the Corporation may make appropriate arrangements for the secondment or transfer of an employee in the service of the

(a) Bank to the service of the Corporation; or

(b) Corporation to the service of the Bank.

(2) The Bank may make appropriate arrangements for the secondment or transfer of

(a) a public officer to an office in the service of the Bank; or

(b) an employee to an office in the public service.

(3) Where a transfer or secondment is effected pursuant to subsection (1), the Bank or the Corporation shall make such arrangements as may be necessary to preserve the pension rights of the employee that it seconds or transfers as well as any gratuity or other allowance to which the employee would have been eligible had that employee remained in the service of the Bank or Corporation, respectively.

**Pension Fund**

**31.(1)** The Bank shall establish a pension fund for the benefit of the employees of the Bank.

(2) The Board shall prescribe the rules and regulations that govern the pension fund and the pension fund shall be administered in accordance with those rules and regulations.

(3) Notwithstanding subsections (1) and (2), the Pension Fund that is in existence on the date of commencement of this Act and the rules and regulations made to govern that Fund shall remain in force until expressly revoked.

### **Pensions**

**32.(1)** Where the public service permits the secondment of a public officer to an office in the Bank from a pensionable office within the meaning of section 2(1) of the *Pensions Act*, Cap. 25, the period in which the public officer serves in the Bank shall, unless the Governor-General decides otherwise, count for pension under that Act as if the public officer had not been seconded.

(2) Where a transfer of a public officer to an office in the service of the Bank or an employee of the Bank to an office in the public service is effected in accordance with section 30, the

(a) *Pensions Act* shall apply to him as if his service with the Bank is other public service within the meaning of that Act; and

(b) *Pensions Regulations, 1947* (Act 1947-20) shall apply to him accordingly as if the Bank were a Scheduled Government within the meaning of regulations 8 and 9(1) of those Regulations.

(3) Where a public officer or an employee of a statutory corporation is appointed or transferred to a pensionable office in the Bank from a pensionable office within the meaning of section 2(1) of the *Pensions Act*, the period during which he served as a public officer or an employee of the statutory corporation may, at the discretion of the Board, count for pensionable service under this Act as if his tenure was spent in the employment of the Bank.

(4) Where the service of a public officer or an employee of a statutory corporation is counted as a pensionable service pursuant to subsection (3), there shall be paid to the Bank out of the Consolidated Fund a sum equal to the sum that would have accrued to the public officer or employee, as pension at the date of his appointment or transfer to the Bank had the appointment or transfer not occurred.

## PART V

## CURRENCY

**Currency of Barbados**

**33.** The unit of currency of Barbados is the Barbados dollar divided into 100 cents.

**Parity of Barbados dollar**

**34.(1)** The par value of the Barbados dollar shall be \$1 Barbados to \$0.50 in the currency of the United States of America and any change thereof shall be determined by the Minister by order after consultation with the Bank.

(2) The Minister shall, in the determination of any change of the par value, have regard to the obligations which Barbados has assumed in accordance with the provisions of an international monetary agreement to which it is a party or to which it adheres.

(3) Any change in the par value prescribed under subsection (1) shall be

- (a) subject to negative resolution; and
- (b) published in the *Official Gazette*.

**Sole right to issue and recall currency notes and coins**

**35.(1)** The Bank shall have the sole right to issue currency whether on its own account or as an agent of an international financial authority.

(2) Neither the Government nor any person shall issue the following:

- (a) currency; or
- (b) documents or tokens payable to bearer on demand, being documents or tokens that have the appearance of or purporting to be currency notes or coins.

- (3) Currency notes that the Bank issues shall be legal tender in Barbados, at their face value, for the payment of any amount.
- (4) Coins that the Bank issues on its own account in denominations of
- (a) \$10 or more shall be legal tender in Barbados, at their face value, for the payment of any amount; and
  - (b) less than \$10 shall be legal tender in Barbados at their face value for the payment of any amount that the Bank may from time to time determine.
- (5) The Bank may, on giving not less than 3 months' notice in the *Official Gazette* and, notwithstanding any enactment to the contrary, in at least one daily newspaper circulated in Barbados, call in any currency that the Bank has issued on payment of their face value.
- (6) Subject to subsection (5), the currency shall, on the expiration of the notice, cease to be legal tender, but the holders of the currency shall be entitled thereafter to claim payment from the Bank in accordance with such regulations as it may issue.

### **Denominations and other aspects of currency**

- 36.(1)** Currency issued by the Bank shall be in such denominations and in such forms and designs as shall be determined by the Bank, with the approval of the Minister.
- (2) The production of such currency shall be the duty of the Bank, which shall be responsible for the security and safe keeping of unissued stocks of currency and for the custody and destruction, as necessary, of plates, dies and retired currency.
- (3) The Bank shall, with the approval of the Minister, determine the standard weight, composition and other features and formats of coins that it issues and the amount of remedy and variation of the coins.

**Re-issuance and exchange**

**37.(1)** The Bank shall, on demand, re-issue and exchange currency notes and coins which it has issued.

- (2) The Bank may, with the approval of the Minister,
- (a) prescribe by notice published in the *Official Gazette* the fees that may be charged for services of the Bank referred to in subsection (1); and
  - (b) forward a written notice of the fees to each financial institution at its principal place of business in Barbados.
- (3) Where a person requests a denomination that is temporarily unavailable, the Bank may discharge its obligation by delivering currency of available denominations which most nearly approximate to those that the person requested.

**Refunds**

**38.(1)** No person shall be entitled to recover from the Bank as of right the value of any lost, stolen, damaged or mutilated currency note or coin.

- (2) Where a currency note or coin is damaged or mutilated, the Bank shall determine the circumstances in respect of which it may refund the value of the damaged or mutilated currency note or coin to the person.

**Offences in relation to currency**

**39.(1)** No person shall obstruct or hinder in any way the circulation of legal tender or the proper use of currency issued under this Part.

- (2) No person shall
- (a) mutilate, cut, tear or perforate with holes or otherwise alter any currency note which is legal tender in Barbados;
  - (b) in any way deface or alter a currency note, whether by writing, printing, drawing or stamping thereon or by attaching or affixing anything

thereto, whether electronically or otherwise, in the nature or form of an advertisement;

- (c) mutilate or alter a coin which is legal tender in Barbados; or
- (d) photograph or reproduce a currency note or a coin in any form without the written permission of the Bank.

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 12 months or to both.

(4) The Bank shall assist in the enforcement of any law relating to forgery or counterfeiting of currency which is legal tender in Barbados.

(5) Subject to subsection (4), a certificate of a duly authorized employee or a duly authorized agent of the Bank that an item in question is or is not genuine shall be *prima facie* evidence of that fact as being certified by the Bank in any legal proceeding in Barbados.

(6) No person shall make or cause to be made, use for any purpose whatsoever or utter a document that purports to be in any way to resemble or so nearly resemble a currency note or part thereof as to be calculated to deceive another person.

(7) A person who contravenes subsection (6) is guilty of an offence and is liable on conviction on indictment to a fine of \$20 000 or to imprisonment for 2 years or to both.

## PART VI

### RESERVE OF EXTERNAL ASSETS

#### **Maintenance of a Reserve of External Assets**

**40.(1)** Subject to the objectives set out in section 6, the Bank shall conduct transactions in international reserves and manage such reserves in accordance

with international best practices for the purposes of achieving the exchange rate policy target.

(2) Notwithstanding subsection (1), the transactions referred to in subsection (1) shall be conducted for the following reasons and in such order as may be determined by the Bank:

- (a) preservation of capital;
- (b) liquidity; and
- (c) profitability.

(3) Subject to subsections (1) and (2), the Bank may

- (a) open and maintain accounts in Barbados and abroad; and
- (b) act as an agent or a correspondent for a foreign financial institution, a foreign government, a foreign government institution or an international financial institution.

(4) The Bank may maintain in the portfolio of external reserve assets all or any of the following instruments:

- (a) monetary gold or other precious metals;
- (b) foreign currency in the form of banknotes or in a digital or other format, coins or money deposited with other central banks or international investment-grade financial institutions;
- (c) an internationally recognized reserve asset including the
  - (i) ability of Barbados to make a gold tranche purchase in the General Account of the International Monetary Fund; and
  - (ii) holding of a special drawings right in the International Monetary Fund by Barbados;
- (d) investment-grade securities denominated in foreign currency issued by foreign governments; and

- (e) such other internationally recognised financial instruments and investment grade securities consistent with the principles of safety and liquidity as the Board approves.
- (5) The Bank shall use its best endeavours to maintain the Reserves of External Assets at a level adequate for the international transactions of Barbados.
- (6) Where the reserves of external assets decline and in the judgment of the Executive Committee, appear to be in danger of declining so as to jeopardize the fixed exchange rate regime, the Executive Committee shall submit to the Minister the following:
  - (a) a report on the Reserve position and the causes which have led or may lead to the decline; and
  - (b) its recommendations and measures that it considers necessary to forestall or otherwise remedy the situation.

## PART VII

### FOREIGN EXCHANGE OPERATIONS

#### **Limitation on operations of foreign exchange**

- 41.(1)** The Bank may, in connection with the operations enumerated at section 40, deal only with such institutions as determined by the Board as part of the risk management policy of the Bank.
- (2) Notwithstanding subsection (1), the Bank, with the approval of the Minister, may deal with other persons under such terms as the Board deems appropriate.

#### **Determination of buying and selling rates of gold and foreign exchange**

- 42.** The Bank shall determine and make public rates at which it will buy, sell or deal in gold and foreign currencies.



**Changes in parity**

**43.(1)** Where gains or losses arise from changes in parity of the Barbados currency, the Bank shall recognize the gains or losses in a Statement of Changes in Equity.

(2) Subject to subsection (1), the Bank shall, where applicable, transfer the gains to income over a period of not less than 5 years or such other period as the Board determines.

(3) Subject to subsection (1), the Government shall, where applicable,

(a) absorb the losses and issue an interest bearing redeemable note to the Bank; and

(b) redeem the note from the future profits of the Bank in accordance with paragraph (c) of section 10(1).

(4) For the purposes of this section, "parity" means a fixed rate system.

**PART VIII****RELATIONS WITH BANKS AND OTHER FINANCIAL INSTITUTIONS****Opening accounts for specified financial institutions**

**44.** The Bank may open accounts for and accept deposits from banks and other institutions as determined by the Executive Committee.

**Operations**

**45.(1)** The Bank may conduct the following operations to carry out its functions established in section 6:

(a) operate in financial markets by outright spot and forward buying and selling or repurchase agreements and instruments and swap or other hedging transactions, whether in domestic or foreign currencies;

- (b) provide to solvent banks and other solvent deposit taking institutions loans, advances and overdrafts in domestic currency which are secured by adequate collateral and modalities;
  - (c) subject to terms and conditions that the Bank establishes, provide to solvent but temporarily illiquid financial institutions or systemically important financial institutions, loans in domestic or foreign currency for periods not exceeding 180 days, which are renewable only once at the discretion of the Bank and secured by collateral;
  - (d) with the consent of the Minister, provide to banks, deposit taking institutions or systemically financial important institutions, that are insolvent or of doubtful insolvency, loans or other forms of financial support where such financial support is to be secured by collateral or unconditional government guarantee;
  - (e) issue its own debt securities;
  - (f) lend to the Corporation on a short term basis under such conditions and amounts as the Bank determines that the Corporation may require to meet its obligations under the *Deposit Insurance Act*, Cap. 323 where such loans are for the purpose of addressing urgent situations which may negatively impact financial stability.
- (2) The Bank shall obtain the approval of the Minister before it effects a hedging transaction where that transaction relates to the borrowings made by the Government.

#### **Determination of rates**

**46.(1)** The Bank may determine its rates for discounts, re-discounts, advances, loans or overdrafts.

(2) Where the Bank makes a determination pursuant to subsection (1), it shall publicly announce the rates for discounts, re-discounts, advances, loans or overdrafts.

(3) The Bank may establish different rates and ceilings for various classes of transactions or maturities.

#### **Foreign working balances**

47. The Bank may prescribe the maximum amount of the working balances which a financial institution may hold in foreign currencies or in any specified currency.

#### **Macro-prudential powers**

48. The Bank shall monitor the financial stability of the financial system and where there is a perceived threat to the financial system, the Bank shall have the power to manage and control that risk by taking any steps that it deems suitable.

#### **Bank as prudential regulator and supervisor**

49. The Bank shall be the regulator and supervisor of financial institutions and other entities as specified in the *Financial Institutions Act*, Cap. 324A and any other relevant enactment.

#### **Reserves of financial institutions**

50.(1) The Bank may require banks or other deposit taking institutions to hold a minimum reserve on accounts at the Bank or in cash.

(2) For the purpose of subsection (1), the Bank may establish regulations concerning the calculation and determination of minimum reserves and shall determine the basis on which the requirements of this section may be met including the basis of averages of holdings over a period as the Bank prescribes.

(3) The Bank shall

- (a) advise of any changes to regulations established pursuant to subsection (2) by giving written notice to each financial institution, at its principal place of business in Barbados, of the changes; and

- (b) give the written notice not less than 15 days prior to the change.
- (4) The Bank shall not require banks or other deposit taking institutions to hold a total amount of reserves in excess of 20 per cent of the total deposit and other similar liabilities to which reserve ratios have been made applicable.
- (5) Notwithstanding subsection (4), the Bank may prescribe higher ratios appropriate to the circumstances.

#### **Penalties for failure to maintain reserves**

- 51.(1)** The Bank may impose on a financial institution which fails to maintain cash reserves in accordance with section 50 a charge at an annual rate that does not exceed twice the highest discount rate fixed by the Bank in accordance with section 46 at the time of the failure.
- (2) The Bank may impose the charge on the amount of deficiency for each reporting period or part thereof during which the deficiency continues.

#### **Payments systems**

- 52.(1)** The Bank shall have the sole authority for the supervision, operation and administration of the national payments system and clearing house facilities.
- (2) The Bank may, pursuant to any enactment governing the national payments system, issue guidelines and directives to govern the operation and regulation of the national payments system and clearing house facilities as the Bank deems fit.
- (3) The Bank may participate in the ownership of local clearing house facilities.

#### **Authority of the Bank to extend specified financial institutions**

- 53.(1)** On the recommendation of the Bank, the Minister may, by notice published in the *Official Gazette*, prescribe that any authority that this Part confers on the Bank may be exercised by the Bank in relation to any entity that is not a licensee under the *Financial Institutions Act*, Cap. 324A.

(2) The name of an entity to which subsection (1) applies shall be specified in the notice.

### **Prohibited activities**

**54.** Unless explicitly stated by this Act, the Bank shall not conduct any financial activity that should be undertaken by the Government or any other agency to stimulate economic growth including

- (a) the provision of financial grants to persons;
- (b) the speculative purchase or sale of moveable or immovable property for profit;
- (c) taking deposits from persons or granting or providing transaction services to persons;
- (d) making investments, including the purchase of shares in enterprises owned by the Government or private companies or the purchase of securities or bonds issued by such enterprises or companies;
- (e) issuing loans, payment or bank guarantees for persons who conduct balance sheet and off-balance sheet transactions which create economic or commercial advantages for persons or specific economic sectors.

### **Management by the Bank of special purpose vehicles**

**55.(1)** The Bank may establish and manage entities or special purpose vehicles as may be required from time to time.

(2) For the purpose of this section "special purpose vehicle" means an entity in which the Bank participates or manages and is set up for a special financial purpose connected with the overall objectives of the Bank.

**PART IX****RELATIONS WITH THE GOVERNMENT****Interpretation**

**56.** For the purposes of this Act, reference to “fiscal year” with respect to the Government means the twelve-month period ending on March 31 in each year.

**Bank to be banker, fiscal agent and depositary to Government**

**57.(1)** The Bank shall be the banker and fiscal agent of the Government and the depositary of Government funds.

(2) Subject to subsection (1), the Bank may act in such capacities to institutions and agencies of the Government, statutory corporations and statutory boards on such terms and for such periods of time as the Bank and the Minister may agree.

(3) Subject to subsection (1), the Government may maintain working balances with other financial institutions and the use of the services of other financial institutions on terms and for periods of time as the Bank and the Minister may agree.

(4) The Government may, through the Minister, request the Bank to render advice and to furnish reports on matters that relate to the purposes of the Bank.

(5) The Bank shall, through the Minister, inform and advise the Government of any matter which in the view of the Bank shall affect the achievement of the purposes of the Bank.

**Depository of securities and other instruments**

**58.(1)** The Bank shall establish and operate a depository of Government securities or other instruments.

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- (2) For the purposes of subsection (1), the Bank may
- (a) enter into agreements with depositories of securities or of other instruments and carry out transactions under the terms of those agreements as may be necessary for the settlement of transactions between members of those depositories and the members of any depository operated by the Bank; and
  - (b) make rules and guidelines for the operation of the depositories.

### **Depository and fiscal agency of international financial institutions**

**59.** The Minister may designate the Bank to serve as the depository and fiscal agent of and the institution through which dealings shall be conducted with international financial institutions of which Barbados is a member.

### **Consultation on budget and credit operations**

**60.(1)** The Minister shall consult the Bank on the total amount of credit to be extended by the Bank to the Government during any fiscal year of the Government.

(2) The Government, institutions and agencies of the Government and statutory boards shall consult the Bank when they contemplate domestic credit operations or foreign credit operations.

(3) Subject to subsection (2), where the Bank is of the view that the domestic credit operations or the foreign credit operations appear to be of a magnitude that is inappropriate to prevailing economic conditions, the Bank shall

- (a) report such to the Minister to draw attention to the situation; and
- (b) recommend to the Minister measures to remedy the situation.

**Reports and recommendations on Bank credit to Government**

**61.** Where the total amount of credit that the Bank extends to the Government pursuant to this Act or any other enactment threatens to

- (a) exceed the amount agreed under section 60; or
- (b) endanger the par value of the Barbados dollar,

the Bank shall submit a report to the Minister that draws attention to the situation, analyses the causes which led to the situation and recommends measures that it considers necessary to forestall or remedy the situation.

**Prohibition on monetary financing**

**62.(1)** The Bank, except otherwise provided in this Act, shall not provide any direct or indirect financing to the Government or Government owned enterprises including the

- (a) grant by the Bank of direct or indirect loans or short term advances;
- (b) issuance of guarantees by the Bank for financial transactions.

(2) Subsection (1) does not apply to the banks that are owned by the Government.

(3) The Bank shall not purchase securities issued by the Government or any Government owned enterprise on the primary market.

(4) Notwithstanding subsection (3), the Bank may acquire securities transferred to it by the Government in accordance with section 7 and section 43.

(5) Notwithstanding subsections (3) and (4), where by an enactment it is declared that a public emergency has arisen in Barbados, the Bank may purchase marketable securities issued by the Government or any publicly owned institution on the primary market where

- (a) the total amount of Government debt acquired by the Bank pursuant to this section does not exceed 3 per cent of gross domestic product;



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- (b) securities issued pursuant to this subsection shall
- (i) have a specified maturity of a maximum of up to 5 years;
  - (ii) be issued at prevailing market rates;
  - (iii) be repaid in cash only; and
  - (iv) not been rolled over or renewed.
- (6) Notwithstanding any other provision to the contrary, the Bank may make temporary advances to the Government to permit the Government to manage its cash flow.
- (7) Where the Bank makes temporary advances pursuant to subsection (6), the temporary advances shall be subject to the followings conditions:
- (a) the total aggregate amount cannot exceed at any time 7.5 per cent of the annual average of the ordinary revenue of the Government for the 3 fiscal years of the Government immediately preceding for which accounts are available;
  - (b) repayment in cash only within 3 months of the end of the fiscal year of the Government;
  - (c) bear interest at a prevailing market rate.
- (8) Where subsection (5) is invoked and the ordinary revenues of the Government declines below that in the fiscal year of the Government immediately preceding the public emergency, the Bank may exclude such reduced revenue in the computation of the annual average in paragraph (a) of subsection (7).
- (9) Notwithstanding subsections (6) and (7), the Bank may make advances to the Government upon terms to which the Bank and the Government agree in respect of the following:
- (a) subscriptions and other payments that result from or are incidental to the membership or participation of Barbados in an international financial institution;

- (b) participation of Barbados in transactions and operations it undertakes in respect of an international financial institution.

(10) Subsection (7) shall not come into force until the beginning of the fiscal year of the Government immediately following the day this Act comes into operation.

### **Orders**

**63.(1)** Where the Minister consults with the Bank on the macroeconomic policies of the Bank and the Minister is of the view that the macroeconomic policies of the Bank are not adequate for or conducive to the achievement of the purposes of the Bank as set out at sections 6(1) and 6(2), the Minister may issue an order to the Bank that states a macroeconomic policy is to be adopted by the Bank in respect of the purposes.

(2) Where the Minister issues an order in accordance with subsection (1), the order shall

- (a) acknowledge that the Government is responsible for the macroeconomic policy; and
- (b) be published in the *Official Gazette* forthwith.

(3) Notwithstanding subsection (2), the Minister shall

- (a) inform the Bank of the macroeconomic policy; and
- (b) as soon as practicable after he informs the Bank of the macroeconomic policy, cause to be laid before Parliament
  - (i) a copy of the order determining the policy which shall be subject to an affirmative resolution of Parliament; and
  - (ii) his statements and statements of the Bank which occasioned the order.

(4) Upon the fulfilment of the conditions set out in subsections (2) and (3), the Bank shall give effect to the macroeconomic policy pursuant to the order.

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PART X

ACCOUNTS AND AUDITS

**Internal audit functions**

**64.** The Board shall, upon the advice of the Audit Committee, develop written policies and procedures which are necessary for the efficient discharge of the internal audit functions of the Bank.

**Chief Internal Auditor**

**65.(1)** The Board shall, on the recommendation of the Audit Committee, appoint a Chief Internal Auditor of the Bank.

(2) The Chief Internal Auditor shall have not less than 6 years experience in the field of accounting or audit.

(3) The Chief Internal Auditor shall be removed from office where the Board concludes that conditions referred to in section 25 apply to the Chief Internal Auditor.

**Duties of the Chief Internal Auditor**

**66.** The duties of the Chief Internal Auditor shall include the following:

- (a) proposing to the Audit Committee an annual audit plan;
- (b) making recommendations to the Audit Committee on procedures and practices for strengthening internal controls and following up and reviewing their effectiveness on a continuous basis;
- (c) performing audits in accordance with the annual audit plan and in compliance with international standards on internal audit;
- (d) preparing and delivering to the Audit Committee and the Board where the Audit Committee or the Board deems appropriate, but not less than

once a quarter, a report summarizing its activities, findings and status of audit recommendations;

- (e) liaising with the external auditors of the Bank; and
- (f) any other assignment that may be given by the Audit Committee or the Board where such assignments do not interfere with the principal duties set out in this section.

### **External audit**

**67.(1)** The accounts, records and financial statements of the Bank shall, at least once a year, be audited in accordance with the international standards on auditing by an external auditor who is of good repute and has recognised experience in the auditing of major financial institutions.

(2) The Board shall, after a competitive bidding process, appoint an external auditor for a period of 5 years.

(3) Where the Board appoints an external auditor pursuant to this section, the external auditor is eligible for re-appointment for a cumulative audit period which shall not exceed 10 years.

(4) The external auditor shall report to the Audit Committee and the Board on matters which arise from the audit and in particular on material weaknesses in internal controls which relate to the financial reporting process.

(5) The external auditor shall have the authority to examine all records and accounts of the Bank and to obtain all information on its transactions.

### **Accounts and operations**

**68.(1)** The Bank shall

- (a) as soon as practicable after the end of each month, make a financial statement of the condition of the Bank at the close of business on the last day of each month; and
- (b) submit a copy of the statement to the Minister.

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- (2) The Minister shall, on receipt of the statement referred to in subsection (1), cause the statement to be published in the *Official Gazette*.
- (3) The Board shall, within 3 months of the close of each financial year, submit to the Minister
- (a) a copy of the financial statements which have been approved by the Board and certified by an external auditor; and
  - (b) a report on the operations of the Bank during the financial year.
- (4) The Bank shall within 60 days following the external audit certification of the financial statements, publish the audited financial statements and the related external audit opinion in respect of such statements in the *Official Gazette*.
- (5) Where the Minister receives a copy of the financial statements of the Bank or the report of the operation of the Bank for the financial year in respect of which the financial statements have been prepared, the Minister shall lay the financial statements or the report, respectively,
- (a) before Parliament within 60 days of receipt of the financial statements or the report; or
  - (b) at the first sitting of Parliament after the expiration of the 60 days.

## PART XI

### MISCELLANEOUS

#### **Reports and announcements**

- 69.(1)** The Bank may issue reports and publications as the Board considers to be of public interest.
- (2) The Bank may require persons to furnish to the Bank any information and data that is necessary to enable the Bank to perform its functions under the Act.
- (3) The Bank may publish the information and data in any form it determines.

(4) Notwithstanding subsection (3), the Bank shall not identify individual transactions in the publication.

(5) Any person who

- (a) intentionally or without justification fails to comply with a request for information under subsection (2);
- (b) intentionally or without justification fails to furnish, within the time specified by the Bank, any information or date requested by the Bank under subsection (2); or
- (c) knowingly supplies any information pursuant to a request made under subsection (2) which is incomplete or false in material particular,

is guilty of an offence and shall be liable on summary conviction to a fine of \$10 000.

#### **Advances to employees**

**70.** The Bank may, subject to terms that the Board specifies, grant advances to an employee of the Bank for

- (a) the purchase, construction or repair of one residential property or the purchase of land for his personal use against the security of the property or for land; or
- (b) any other purposes in an amount that does not exceed the annual remuneration that the employee receives from the Bank during the time the advances are repayable.

#### **Restricted titles**

**71.** Except with the written consent of the Minister, on the recommendation of the Bank, a financial institution shall not be licensed under the *Financial Institutions Act*, Cap. 324A by a name that includes the words "Central", "National", "Barbados", "Reserve", "State" or their equivalent in any other language.

**Exemptions**

- 72.** Notwithstanding any other enactment, the Bank is exempt from the
- (a) payment of income tax and any other tax imposed on the income or profits of persons;
  - (b) payment of stamp duty on any document resulting from transactions with persons resident outside Barbados; and
  - (c) requirements of the *Financial Institutions Act*, Cap. 324A.

**Liquidation of Bank**

- 73.** The Bank shall not be liquidated except by an Act of Parliament.

**Immunity of employees**

- 74.** The Governor or an employee of the Bank shall not be liable in damages for anything done or omitted in the discharge or purported discharge of his functions under this Act unless it is shown that the act or omission was done in bad faith.

**Residence**

- 75.(1)** The Governor is entitled to occupy a fully furnished residence without the payment of rent.
- (2) The Bank shall provide the residence.
  - (3) The value of the residence shall not be included in calculating the assessable income of the Governor for the purposes of the *Income Tax Act*, Cap. 73.

**Savings**

- 76.** Subject to section 77, all acts done under the former Act, except in so far as they are not inconsistent with this Act, shall continue to have effect as though done under this Act.

**Transitional provisions**

**77.(1)** The Governor and the Directors who are appointed under the provisions of the former Act and who are in office on the day this Act comes into operation, shall remain in office until the expiration of the terms of their respective appointments.

(2) Subject to subsection (1), where the respective terms of appointments expire, the Governor and non-executive Directors shall be appointed in accordance with this Act, except for the initial term of their mandates which shall be as follows:

- (a) the Governor shall be appointed for 6 years;
- (b) in respect of the non-executive Directors,
  - (i) one shall be appointed for one year;
  - (ii) another shall be appointed for 2 years;
  - (iii) another shall be appointed for 3 years;
  - (iv) another shall be appointed for 4 years; and
  - (v) another shall be appointed for 5 years.

(3) Where on the day this Act comes into operation there are vacancies for the position of non-executive Director, any person appointed to the position of non-executive Director on that day or thereafter shall be appointed in accordance with this Act.

(4) The Deputy Governors appointed under the provisions of the former Act who are in office on the day this Act comes into operation are deemed to have been appointed in accordance with this Act.

(5) On the day this Act comes into operation

- (a) the Bank is prohibited from conducting any new financial activities to stimulate economic growth that should ordinarily be undertaken by the Government or any other agency of Government; and



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- (b) the Bank shall, within a two-year period of the Act coming into operation, divest ownership of any scheme which involves the carrying out financial activities to stimulate economic growth which should ordinarily be undertaken by the Government or any other agency of Government.
- (6) Notwithstanding paragraph (b) of section 62(7), for the 2 fiscal years of the Government after this Act comes into operation, temporary advances from the Bank to the Government shall be repaid within 6 months of the end of those fiscal years.
- (7) External auditors appointed under the former Act shall remain in office until the expiration of their audit period.
- (8) Where the audit period referred to in subsection (7) expires, external auditors shall be appointed in accordance with this Act.

#### **Consequential amendment**

**78.** The enactment set out in the first column of the *Schedule* is amended to the extent specified opposite thereto in the second column.

#### **Repeal of Cap. 323C**

**79.** The *Central Bank of Barbados Act, Cap. 323C*, is repealed.

**SCHEDULE***(Section 78)*

## CONSEQUENTIAL AMENDMENT

Column 1

Column 2

Enactment

Amendment

*Public Finance Management Act, 2019*  
(Act 2019-1)

Subsection (2) of section 59 is repealed.